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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/631,248

07/31/2003

Jiten Chatterji

HES 2003-IP-011145U1

1599

28857

7590

06/22/2005

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EXAMINER

FULLER, BRYAN A

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,248

Applicant(s)

CHATTERJI ET AL.

Examiner

Bryan A. Fuller

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 32 is/are pending in the application.
- 4a) Of the above claim(s) 21 - 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/31/03 & 3/7/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 - 20, drawn to a method of using a fluid in a subterranean formation, classified in class 166, subclass 292.
 - II. Claims 21 - 32, drawn to a cement composition, classified in class 106, subclass 713.
2. The inventions are distinct, each from the other because:
3. Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the cement composition can be used in a process to make a building material, a walkway, a tile, block, or for coating.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Craig Roddy on 6/16/2005 a provisional election was made without traverse to prosecute the invention of Group I claims 1 - 20.

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 21 - 32 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

5. Claim 20 is objected to because of the following informalities: Claim 20 recites the limitation "said hydraulic cement" in the first line. There is insufficient antecedent basis for this limitation in the claim. Claim 20 is dependent upon claim 9. It appears that claim 20 was intended to be dependent upon claim 19. The application has been examined as though claim 20 was dependent upon claim 19. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 2, 4 – 11, and 13 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson, Sr. et al (6,302,209).

With respect to claims 1 – 2 and 10 - 11: Thompson, Sr. et al teaches in the abstract and in column 4, lines 42 – 67 a method of mixing a polymer precipitation and coagulation preventing surfactant with said aqueous saline fluid to form an aqueous saline fluid solution and introducing the treating fluid into a subterranean zone. The reference also teaches that the aqueous saline fluid can be brine.

With respect to claims 4 – 5 and 13 - 14: Thompson, Sr. et al teaches in column 10, lines 31 – 54 a polymer precipitation and coagulation preventing surfactant is selected from the group of C₁₆₋₁₈ alcohol ether sulfates substituted with from about two to about forty moles of ethylene oxide. The reference also teaches in column 4, lines 53 – 66 the use of a C12-20 alpha-olefin sulfonate as the polymer precipitation and coagulation preventing surfactant.

With respect to claims 6 and 15: Thompson, Sr. et al teaches in column 19, lines 12 – 27 a method of using a polymer precipitation and coagulation preventing surfactant in the amount from about 0.2% to about 1.5% by weight of water in said formation.

With respect to claims 7 and 16: Thompson, Sr. et al teaches in column 21, lines 40 – 62 the use of guar gum and cellulose derivatives as the polymer in the water-in-oil emulsion.

With respect to claims 8 and 17: Thompson, Sr. et al teaches in column 21, line 63 – column 22, line 14 the method where the polymer is present in the emulsion in the amount in the range from about 30% to about 45% by weight of the emulsion.

With respect to claims 9 and 18: Thompson, Sr. et al teaches in column 21, lines 12 – 23 the method where the polymer is present in the aqueous saline fluid in the amount in the range from about 5% to about 50% by weight thereof.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson, Sr. et al in view of Young et al (5,507,344).

With respect to claims 3 and 12: Thompson, Sr. et al teaches the features as claimed except for the use of seawater as the aqueous saline fluid. Young et al teaches in column 3, lines 60 – 67 the use of seawater as an aqueous saline fluid. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Thompson, Sr. et al's method by using seawater as the aqueous saline fluid in view of the teachings of Young et al. The motivation for this combination is that seawater may be more readily available than brine in certain situations (i.e. offshore well locations).

10. Claims 19 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson, Sr. et al in view of Chatterji et al (US 2002/0096090 A1).

With respect to claims 19 - 20: Thompson, Sr. et al teaches the features as claimed except for the use of a specific hydraulic cement material. Chatterji et al teaches in paragraph [0015] the use of Portland cement as a specific hydraulic cement material. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Thompson, Sr. et al's method by using Portland cement as a specific hydraulic cement material in view of the teachings of Chatterji et al. The primary reference teaches the composition used in this method can

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be used in a cement slurry carrier. The motivation for this combination is that Portland cement is a common hydraulic cement known by one of ordinary skill in the art.


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Griffith et al (6,315,042) teaches a cement composition comprising an emulsion of oil-in-water with an emulsifying surfactant that is used in conjunction with an aqueous saline fluid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan A. Fuller whose telephone number is (571) 272-8119. The examiner can normally be reached on M - Th 7:30 - 5:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian E. Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brian E. Glessner
Supervisory Patent Examiner
Art Unit 3676

baf